

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

Raphael Morales and Mila Morales	:	
Individually & as h/w	:	
3505 Vintage Spring Terrace	:	
Onley, MD 20832	:	
Plaintiffs		:
v.		NO.: 07-4419
		:
Superior Living Products, LLC	:	
355 Circle of Progress	:	
Pottstown, PA 19464	:	Jury Trial of Twelve (12) Jurors Demanded
		:
and	:	
		:
Joseph Scott d/b/a Superior Living	:	
Products, LLC	:	
9 S. Washington Street	:	
Boyertown, PA 19512	:	
Defendants		:

PLAINTIFFS' MOTION FOR ENLARGEMENT OF TIME TO FILE FIRST AMENDED
COMPLAINT PURSUANT TO F.R.C.P. 6(b)(1)(B)

Incorporating by reference Plaintiffs' letter request (filed¹ and served under separate cover), Plaintiffs request this Honorable Court enlarge their time for filing their First Amended Complaint (Exh. A) for 24 hours pursuant to F.R.C.P. 6(b)(1)(B), and aver in support thereof:

1. Because of a conflict with Plaintiffs' counsel's religious observance of the Jewish High Holiday of Rosh Hashannah, Plaintiffs requested an enlargement of time (Docket No. 21) from this Honorable Courts' Order (Docket No. 20)² requiring Plaintiffs' First Amended Complaint be filed on the date of that holiday (September 30, 2008).

¹ This Motion is identical in all respects to that which was faxed to the Court and counsel except as it relates to this footnote which was added Saturday, October 11, 2008. Though completed and even faxed within 24 hours of the deadline, this Motion could not be electronically filed as ECF was down immediately after the fax was electronically filed and then throughout the night. This is filed now that ECF has become reavailable for use.

² As advised prior to this Order by this Court's Deputy Clerk, this Honorable Court had mistakenly entered its original Order (Docket No. 19) regarding the deadline of Plaintiffs' first filing.

2. Over Defendants' surprisingly vigorous objection (Docket No. 22), this Honorable Court granted that enlargement.

3. Instead of the seven (7) day enlargement requested by Plaintiffs, this Honorable Court effectively granted two (2) days (though it was signed October 3, it was not docketed and thus received until October 6, for which that date of entry is not counted for calculating time pursuant to F.R.C.P. 6(a)(1)).

4. The Amended Complaint's filing deadline inadvertently fell on the second Jewish High Holiday, Yom Kippur, for which Plaintiffs' counsel was again observant.

5. Excluding the holiday and the date of entry of the Order, Plaintiffs effectively had Tuesday and Wednesday to file their First Amended Complaint.

6. During the holiday, it dawned on Plaintiffs' counsel that the deadline was to once again expire on a holiday.

7. Immediately the following morning, Plaintiffs' counsel contacted Defendants' counsel towards a joint stipulation to enlarge the deadline merely by one (1) day.

8. As before, Defendants' counsel objected and filed a Motion to Dismiss.

9. Plaintiffs admit their counsel's inadvertence in failing to file a Motion to Enlarge prior to the holiday.

10. Plaintiffs' counsel makes no excuse and apologizes.

11. Pursuant to F.R.C.P. 6(b)(1)(B), this Honorable Court may extend an expired deadline if a party "failed to act because of excusable neglect."

12. The above confluence of circumstance (including the Court's own scheduling inadvertence as well as deadlines twice conflicted by holidays) constitutes excusable neglect.

Wherefore, Plaintiffs request this Honorable Court Enter the attached Proposed Order denying Defendants' Motion to Dismiss and granting Plaintiff's a one (1) day extension from the otherwise First Amended Complaint's filing deadline.

PROCHNIAK WEISBERG, P.C.

BY: /s/ Matthew B. Weisberg
MATTHEW B. WEISBERG
Attorneys for Plaintiff

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CERTIFICATE OF SERVICE

I, Matthew B. Weisberg, hereby certify that on this 10th day of October, 2008, a true and correct copy of Plaintiff's Motion for Enlargement, was served via electronic filing upon the following parties:

David J. Pearlman, Esq.
BOCHETTO & LENTZ, P.C.
1524 LOCUST ST.
PHILADELPHIA, PA 19102

PROCHNIAK WEISBERG, P.C.

BY: /s/ Matthew B. Weisberg

MATTHEW B. WEISBERG
Attorneys for Plaintiff